



03-05-04

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE UNDER 37 C.F.R. §1.10

RCE/1600

I hereby certify that the documents enclosed herein are being deposited with the United States Postal Service on this 4th day of March, 2004 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV114072889US addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Michelle Ludwig
Michelle Ludwig

In re application of: Behr et al.

Serial No.: 09/872,051

Filed: June 1, 2001

For: A DNA Construct Having Two Expression Cassettes)
Each Encoding A Glyphosate Tolerant EPSPS)
Enzyme A Method Of Making A Glyphosate)
Tolerant Plant And A Glyphosate Tolerant Plant)
Produced By The Method)

) Examiner: David H. Kruse
)
) Group Art Unit: 1638
)
) Conf. No. 3101

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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TRANSMITTAL LETTER

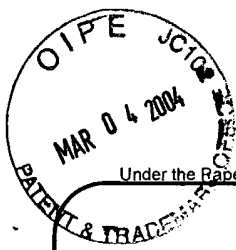
Transmitted herewith are the following documents in the above-identified application.

- X Request for Continued Examination (RCE) Transmittal
 - X Fee Transmittal for Year 2004
 - X Preliminary Amendment
 - X Transmittal of Information Disclosure Statement After Mailing Date of Final Action or Notice of Allowance but Before Payment of Issue Fee (37 C.F.R. §1.97(d))
 - X PTO Form 1449
 - X One (1) Reference
 - X If an extension or an additional extension of time is required, but is not enclosed, please consider this a conditional petition therefor and charge Deposit Account 13-4125 accordingly.
 - X Please debit \$950.00 from Deposit Account 13-4125 for the fee required with this filing.
 - X Please charge any deficiencies or credit any overpayment to Deposit Account 13-4125.
- A duplicate copy of this sheet is attached.

Respectfully submitted,

Thomas P. McBride

Thomas P. McBride
Reg. No. 32,706
800 North Lindbergh Boulevard
St. Louis, Missouri 63167
(314) 694-5802
(314) 694-5311 (fax)



PTO/SB/30 (09-03)

Approved for use through 07/31/2006. OMB 0651-0031

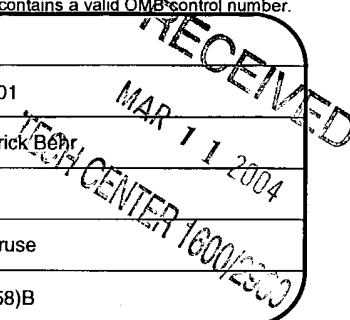
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Request
for
Continued Examination (RCE)
Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/872,051
Filing Date	June 1, 2001
First Named Inventor	Carl Frederick Behr
Art Unit	1638
Examiner Name	David H. Kruse
Attorney Docket Number	38-21(52258)B



This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Rely Brief previously filed on _____
- ii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- iii. ☒ Information Disclosure Statement (IDS)
- ii. ☐ Affidavit(s)/ Declaration(s)
- iv. ☐ Other _____

2. **Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. **Fees**

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
- The Director is hereby authorized to charge the following fees, or credit any overpayments, to
- a. ☒ Deposit Account No. 13-4125
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☒ Other IDS
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	Thomas P. McBride	Registration No. (Attorney/Agent)	32.706
Signature	<i>Thomas P. McBride</i>	Date	4 March

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service **Express Mail #EV114072889US** addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

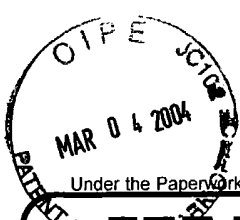
Name (Print/Type)	Michelle Ludwig	Date	March 4, 2004
Signature	<i>Michelle Ludwig</i>		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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03/08/2004 CNGUYEN 00000073 134125 09872051

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PTO/SB/17 (10-03)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 950.00

Complete if Known

Application Number	09/872,051
Filing Date	June 1, 2001
First Named Inventor	Carl Frederick Behr
Examiner Name	David H. Kruse
Art Unit	1638
Attorney Docket No.	38-21(52258)B

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit
Account
Number
Deposit
Account
Name

13-4125

Monsanto Company

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) -0-

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims	Fee from below	Fee Paid
Total Claims		-20** =	X	
Independent Claims		-3** =	X	
Multiple Dependent				

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) -0-

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	180.00
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	770.00
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 950.00

SUBMITTED BY

(Complete (if applicable))

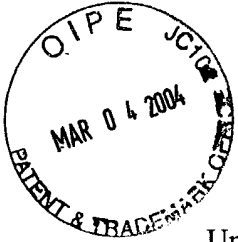
Name (Print/Type)	Thomas P. McBride	Registration No. (Attorney/Agent)	32,706	Telephone	314-694-5802
Signature		Date	4 Mar 04		

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Michelle Ludwig

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MAR 11 2004
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In re application of: Behr et al.

Serial No.: 09/872,051

Filed: June 1, 2001

For: A DNA Construct Having Two Expression)
Cassettes Each Encoding A Glyphosate)
Tolerant EPSPS Enzyme A Method of)
Making A Glyphosate Tolerant Plant And A)
Glyphosate Tolerant Plant Produced by The)
Method)

) Examiner: David H. Kruse
)
) Group Art Unit: 1638
)
) Conf. No.: 3101

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PRELIMINARY AMENDMENT

It is respectfully requested that the following amendment be entered as indicated below and that the application be examined on the merits. It is believed that no new matter is introduced as a result of these amendments.